

REMARKS

Claims 1-30 are presently pending in this application. Claims 1, 8, 15, and 19 have been amended. No new matter has been added. Favorable reconsideration and allowance of the pending claims are respectfully requested.

35 U.S.C. § 102 Rejection

In the Office Action, claims 1-5, 6, 8, 9, 13, 15, 17, 19, 23-26, and 29 were rejected under 35 U.S.C. § 102(e) as being anticipated by United States Patent Number 6,275,797 to Randic ("Randic"). Applicant respectfully traverses the rejection, and requests reconsideration and withdrawal of the § 102(e) rejection.

According to the Office Action, Randic discloses "generating digitized voice data (Figure 3, element 41)" and an "AVR system (Figures 1 and 2, element 24)," which together form the basis of the rejection.

Regarding the generation of digitized voice data, Randic, in relevant part, states:

Step 41 includes generating the digitized voice data. Digitized voice is a continuous stream of data that is compressed and packetized before being sent through the packet network. Different methods having different properties exist for compressing and encapsulating data at the sending computer 12. col. 4, ll. 56-61.

Regarding the AVR (Automatic Voice Recognition) system, Randic, in relevant part, states:

The AVR system 24 recognizes speech in the digitized voice data packets provided in the voice test file 23 received at input terminals 15. The AVR system 24 compares the speech patterns in the transmitted voice test files 17A, 17B, and 17C with speech patterns of the voice test file 23 previously stored in the receiving computers 14, 16, and 18. The result of this comparison is voice path

quality factors 27A, 27B and 27C. The AVR system 24 converts the digitized voice data packet received to speech and vice versa using one of the above-mentioned voice recognition software programs.

While Applicant respectfully disagrees with the broad grounds of rejection presented in the Office Action, Applicant has amended the independent claims in order to expedite prosecution on the merits. In particular, independent claims 1, 8, and 15 have been amended to recite “the input envelope waveform defining an input voltage magnitude and the output envelope waveform defining an output voltage magnitude.” Claim 19 has been amended to recite “the audio analyzer generates an input envelope waveform defining an input voltage magnitude, an output envelope waveform defining an output voltage magnitude, and a data loss summary envelope from the input audio signal and the output audio signal.”

With respect to claims 1, 8, 15, and 19, Randic clearly fails to teach, among other things, an input envelope waveform defining an input voltage magnitude and an output envelope waveform defining an output voltage magnitude. Consequently, each of claims 1, 8, 15, and 19 recites a combination of features which is neither taught nor suggested by Randic. Applicant reminds the Examiner that in order to anticipate a claim under 35 U.S.C. § 102, the cited reference must teach every element of the claim. *See* MPEP § 2131, for example.

Applicant does not otherwise concede, however, the correctness of the Office Action’s rejection with respect to any of the dependent claims discussed above. Accordingly, Applicant hereby reserves the right to make additional arguments as may be necessary to further distinguish the dependent claims from the cited references, taken

alone or in combination, based on additional features contained in the dependent claims that were not discussed above. A detailed discussion of these differences is believed to be unnecessary at this time in view of the basic differences in the independent claims pointed out above.

For at least the reasons set forth above, Applicant submits that independent claims 1, 8, 15, and 19 are allowable and that dependent claims 2-5, 6, 9, 13, 17, 23-26, and 29 are allowable by virtue of their dependency from allowable independent claims, as well as on their own merits.

Accordingly, Applicant respectfully requests reconsideration and withdrawal of the § 102(e) rejection of claims 1-5, 6, 8, 9, 13, 15, 17, 19, 23-26, and 29.

35 U.S.C. § 103 Rejections

In the Office Action, claims 7, 14, 18 and 20-22 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Randic in view of United States Patent Number 6,775,240 to Zhang et al. ("Zhang"). Claims 10-12, 16, 27, 28 and 30 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Randic in view of United States Patent Number 6,026,350 to Tustin et al. ("Tustin"). Applicant respectfully traverses these rejections, and requests reconsideration and withdrawal of the § 103(a) rejections.

As set forth above, Randic fails to teach, among other things, an input envelope waveform defining an input voltage magnitude and an output envelope waveform defining an output voltage magnitude, with respect to amended independent claims 1, 8, 15, and 19.

In the Office Action, Zhang was relied upon as disclosing a “system and method for measuring quality of communications over packet networks including test analyzer and A-D and D-A equipment with resolution of at least 16 bits. See column 5 and Figure 1.” As such, the relevant part of Zhang cannot remedy the deficiencies of Randic with respect to amended independent claims 1, 8, 15, and 19.

In the Office Action, Tustin was relied upon as disclosing “measurement of oscilloscope and specialized type of analyzers presenting captured waveforms where self-framing serial trigger circuit producing serial trigger signal applied to channels. See column 1, lines 5-26, column 2, lines 61-67, and columns 3-4.” As such, the relevant part of Tustin cannot remedy the deficiencies of Randic with respect to amended independent claims 1, 8, 15, and 19.

According to MPEP § 2143, three basic criteria must be met to establish a *prima facie* case of obviousness. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). See MPEP 706.02(j).

Even if Randic could be combined with Zhang or Tustin, which Applicant does not admit, such combination fails to teach or suggest all of the features of independent claims 1, 8, 15, and 19 and thus is insufficient to establish a *prima facie* case of

obviousness with respect to the independent claims. Moreover, Applicant submits that there is no motivation to combine the teaching of Randic with either Zhang or Tustin and that there is no reasonable expectation of success to make such combination.

For at least the reasons set forth above, Applicant submits that the amended independent claims are non-obvious and represent patentable subject matter in view of the cited references, whether taken alone or in combination. Applicant reminds the Examiner that if an independent claim is non-obvious under 35 U.S.C. § 103, then any claim depending therefrom is non-obvious. *See* MPEP § 2143.03, for example.

Accordingly, Applicant respectfully requests reconsideration and withdrawal of the § 103(a) rejection of claims 7, 14, 18, and 20-22 and the § 103(a) rejection of claims 10-12, 16, 27, 28, and 30.

Applicant submits that the application is in condition for allowance. Favorable reconsideration and allowance of the pending claims are respectfully requested.

The Examiner is invited to contact the undersigned at 724-933-3387 to discuss any matter concerning this application.

Appl. No. 09/541,046
Response Dated January 4, 2005
Reply to Office Action of October 4, 2004

The Office is hereby authorized to charge any additional fees or credit any overpayments under 37 C.F.R. § 1.16 or § 1.17 to Deposit Account No. 02-2666.

Respectfully submitted,

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Under 37 CFR 1.34(a)

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage in an envelope addressed to:
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1-4-05
Date

Dated: January 4, 2005

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